

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket № 14311US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Serial № 10/672,653

Filed: September 26, 2003

For: CARD-BASED AND INDEPENDENT
SERVER-BASED BILLING AND
AUTHORIZATION SYSTEM IN A
MEDIA EXCHANGE NETWORK

Examiner: Alan H. Luong

Group Art Unit: 2427

Confirmation № 8223

Electronically Filed on 02-FEB-2009

REPLY BRIEF

MS: APPEAL BRIEF-PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR 41.41, the Appellant submits this Reply Brief in response to the Examiner's Answer mailed on December 3, 2008. Claims 1-25 are pending in the present Application. The Appellant has responded to the Examiner in the Examiner's Answer, as found in the following Argument section.

As may be verified in his final Office Action (page 2), dated April 11, 2008 ("Final Office Action"), claims 1-4, 6-8, and 10-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0059621, issued to Thomas, et al. (hereinafter, Thomas), in view of U.S. Patent No. 6,055,314, issued to Spies, et al. (hereinafter, Spies). Claims 5 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Thomas and Spies, in view of U.S. Patent No. 7,134,131, issued to Hendricks, et al. (hereinafter, Hendricks). To aid the Board in identifying corresponding arguments, the Appellant has used the same headings in the Argument section of this Reply Brief as the headings found in the Appellant's corresponding Brief on Appeal. The Brief on Appeal has a date of deposit of October 8, 2008.

STATUS OF THE CLAIMS

Claims 1-25 were finally rejected. Pending claims 1-25 are the subject of this appeal.

ARGUMENT

I-A. Independent Claim 1

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner is using the following argument stated on page 22 of the Examiner's Answer:

The examiner respectfully disagrees in response. **The claim does not preclude that 'information related to the one or more user defined selections of the content' is not information that is used to uniquely decrypt the user defined selection of video programming content.** Spies teaches that "the IC card contains encryption/decryption or credential 54 as 'related information' for 'user-defined selections' or selected/purchased video programming that is subsequently used to enable viewing of the selected content when inserted into the user playback device (Col 6, Lines 11-58 and col. 13 lines 11-23). This 'related information' is unique to the purchased content (Col 2, Lines 54-61). Therefore, it is the examiner's opinion that the Spies reference teaches the limitation of a "card carrying information related to one or more user-defined selections of the information content, wherein the card allows the at least one communication device to access the user-defined selections identified by the card, once the card is communicatively coupled to the at least one communication device".

The Appellant respectfully disagrees. Even if we assume, for the sake of argument, that "information related to the one or more user defined selections of the content" is "information that is used to uniquely decrypt the user defined selection of video programming content" (as argued in the above bolded citation), the Examiner's argument is still deficient. Namely, **even if the keys stored in Spies' IC card uniquely decrypt the user-defined selection, the stored keys themselves do not identify what the actual user-defined selections are**, as recited in Appellant's claim 1. In

addition to the decryption keys, Spies' IC card does not store any other information that may identify what the actual user-defined selections are.

The Appellant respectfully submits that independent claim 1 is allowable.

I-B. Rejection of Dependent Claim 2

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant respectfully submits that dependent claim 2 is allowable.

I-C. Rejection of Dependent Claims 3-4 and 6-8

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant respectfully submits that dependent claims 3-4 and 6-8 are allowable.

I-D. Rejection of Independent Claim 10

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner is using the following argument stated on pages 23-24 of the Examiner's Answer:

The examiner respectfully disagrees.: As illustrated in Figures 10 and 11 of Spies, media exchange services are not provided until the user authentication (i.e. PIN number, password, etc.) (Step 302 or 314) and billing information (Step 316) (i.e. its price, tax, and other purchasing

information and the subscriber fills an order for the video content program and accompanying payment instructions to be generated by the STB 230) has been completed. To provide premium video services for which payment is expected absent proper user authentication and billing would be simply be counter intuitive and encourage fraud Regarding the usage of an independent server, the limitation is believed met by the headend server 210 which verifies the digital signature using the public signing key of the .IC card contained in credentials 244 (step 314 in FIG. 11) and debits the subscriber billing account maintained in subscriber accounts 218 according to the payment instructions 242 (step 316) (Spies, at col. 15, lines 1-66). The headend 210 subsequently provides the encrypted video as illustrated in Figure 12. Therefore, it is the examiner's opinion that the Spies reference teaches the limitation of "the independent server ... provides media exchange services ... upon receipt of authentication and billing information for the one or more user-defined selections from the first communication device," as recited by the Appellant in claim 10.

The Appellant respectfully disagrees. Whereas the Final Office Action relies on Spies only for the disclosure of "billing information", it seems (based on the above citation) that the Examiner's Answer is now relying on Spies for support with regard to additional limitations. For example, the Examiner has now equated Appellant's "independent server" to Spies' headend server 210. The Examiner is also now using FIGS. 10-11 of Spies for support with regard to the subject claim limitations. Referring to FIGS. 9-11 of Spies, the Appellant points out that neither the cable operator nor the headend server 210 receives both authentication and billing information. Spies discloses that the headend server 210 only receives the digitally signed order (authentication information). The headend server 210 then bills the subscriber account (step 316 in FIG. 11). The "billing" process is simply that the headend server 210 debits the subscriber billing account maintained separately in subscriber accounts server 218. In this regard, Spies

does not receive any billing information, but instead simply debits an existing account (meaning the debiting instructions are obviously communicated to the subscriber accounts server 218). This is further supported by Spies' disclosure (col. 15, line 66 – col. 16, line 2) that the billing and collection tasks are handled by a separate entity, other than the cable operator. There is no reason for the headend server 210 to receive billing information together with the authentication information.

The Appellant respectfully submits that independent claim 10 is allowable.

I-E. Rejection of Dependent Claims 11-15

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant respectfully submits that dependent claims 11-15 are allowable.

I-F. Rejection of Dependent Claim 16

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant respectfully submits that dependent claim 16 is allowable.

I-G. Rejection of Dependent Claim 17

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant respectfully submits that dependent claim 17 is allowable.

I-H. Rejection of Dependent Claims 18-20

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant respectfully submits that dependent claims 18-20 are allowable.

I-I. Rejection of Independent Claim 21

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner is using the following argument stated on pages 26-27 of the Examiner's Answer:

The examiner's opinion that the Spies reference teaches the limitation of "the independent server ... provides media exchange services ... upon receipt of authentication and billing information for the one or more user-defined selections from the first communication device," as discussed in claim 10 above. The ordering of a video asset is equated to a subscription in that it is a transaction where a subscriber purchases the product for a period of time. Therefore, the Spies reference teaches the limitation of "establishing a subscription with an independent server located on the communication network, the subscription allowing for access by the first communication device and the second communication device to the selected media exchange services available on the communication network".

The Appellant respectfully disagrees and points out that there is simply no support in Spies that ordering of a video asset is equated to "a transaction where a subscriber purchases the product for a period of time." Even if this were true, the Examiner's argument is still deficient. Namely, Spies does not disclose subscription access by a

first communication device and a second communication device. Spies' communication of media is user-specific and it is tied only to a single user using the IC card.

The Appellant respectfully submits that independent claim 21 is allowable.

I-J. Rejection of Dependent Claims 22-25

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant respectfully submits that dependent claims 22-25 are allowable.

II. The Proposed Combination of Thomas, Spies, and Hendricks Does Not Render Claims 5 and 9 Unpatentable

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant respectfully submits that dependent claims 5 and 9 are allowable.

CONCLUSION

The Appellant submits that the pending claims are allowable in all respects. Reversal of the Examiner's rejections for all the pending claims and issuance of a patent on the Application are therefore requested from the Board.

The Commissioner is hereby authorized to charge additional fee(s) or credit overpayment(s) to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: 02-FEB-2009

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